



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Rosandre Burgher :

ORDER

Tax Registry No. 941470 :


OF

28 Precinct :

DISMISSAL
-----X

Police Officer Rosandre Burgher, Tax Registry No. 941470, Shield No. 5967, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2012-7681, as set forth on form P.D. 468-121, dated February 20, 2015, and after a review of the entire record, has been found Guilty as charged of Specification Nos. 3, 5 and 6 and Not Guilty of Specification Nos. 1 and 2. Specification No. 4 was dismissed.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Rosandre Burgher from the Police Service of the City of New York.


WILLIAM J. BRATTON
POLICE COMMISSIONER

EFFECTIVE: 0001 Hrs. July 23, 2015



POLICE DEPARTMENT

June 18, 2015

-----X
In the Matter of the Charges and Specifications : Case No.
- against - : 2012-7681
Police Officer Rosandre Burgher :
Tax Registry No. 941470 :
28 Precinct :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Rosemarie Maldonado
Deputy Commissioner Trials

APPEARANCE:

For the Department: Daniel Maurer, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Stuart London, Esq.
Worth, Longworth & London, LLP
111 John Street-Suite 640
New York, New York 10038

To:

HONORABLE WILLIAM J. BRATTON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

The above-named member of the Department appeared before me on February 20 and March 2, 2015, charged with the following:

1. Said Police Officer Rosandre Burgher, assigned to the 46th Precinct, while off-duty, on or about and between March 1, 2012 through June 13, 2012, engaged in oral sexual conduct or anal sexual conduct with a person less than seventeen years old.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Police Officer Rosandre Burgher, assigned to the 46th Precinct, while off-duty, on or about and between March 1, 2012 through June 13, 2012, gave an alcoholic beverage to a person less than twenty-one years old.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

3. Said Police Officer Rosandre Burgher, assigned to the 46th Precinct, while off-duty, on or about and between March 1, 2012 through June 13, 2012, knowingly acted in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

4. Said Police Officer Rosandre Burgher, assigned to the 46th Precinct, while off-duty, on or about and between June 13, 2012 and June 18, 2012, telephoned, text messaged and appeared at the home of an individual, identity known to the Department, and threatened to physically harm said individual. (*Dismissed*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

5. Said Police Officer Rosandre Burgher, on or about and between November 7, 2012 and July 22, 2013, wrongfully provided an individual, whose identity is known to the Department, with money and property in order to influence the testimony of said individual in a criminal proceeding and/or induce said individual to avoid appearing or testifying in said criminal proceeding. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

6. Said Police Officer Rosandre Burgher, on or about and between November 7, 2012 and March 19, 2013, violated a valid Orange County Criminal Court Order of Protection issued by the Honorable Judge Patrick Owen issued on June 19, 2012, and in effect until March 19, 2013, in that Police Officer Burgher had contact with the protected party named in said order directly or through a third party. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Department was represented by Daniel Maurer, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The Department called Sergeant Kevin Blake as a witness. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After evaluating the testimony and evidence presented at the hearing, and assessing the credibility of the hearsay statements and witnesses, this tribunal finds Respondent guilty of the misconduct set forth in Specifications 3, 5 and 6. This tribunal finds Respondent not guilty of the misconduct set forth in Specifications 1 and 2.

FINDINGS AND ANALYSIS

The following facts are undisputed. On February 22, 2012, Respondent accessed the Grindr mobile application from his home in [REDACTED] [REDACTED]. Grindr is a social networking application geared toward gay men with a GPS function that allows the user to connect with other gay men in their immediate vicinity. He saw Minor A's profile on Grindr, made contact and at approximately 2100 hours that evening picked him up in his car and drove him to his home. Although Minor A was only 16 years old at the time, he represented himself to be 18 in his profile.

Between February 22 and June 13, 2012, Respondent and Minor A developed a close relationship. During this period Minor A spent a significant amount of time in Respondent's [REDACTED] house. For example, in evidence are four pictures of Minor A in Respondent's bedroom posing for the camera in different outfits. Respondent

contracted a local gym membership for Minor A also invited guests to Respondent's house and had loud parties which resulted in physical damage to the house, noise complaints and visits from the [REDACTED] Police Department. On at least one occasion, Minor A drove Respondent's car. In fact, on March 18, 2012, the [REDACTED] Police Department notified Respondent that Minor A was unlawfully driving his vehicle. Minor A was issued two traffic summonses for driving alone with a learner's permit. About a month after they met, Respondent rented one of the bedrooms in his house to Minor A's 23 year old sister. (Tr. 18-22, 24, 50, 173-179, 180-182, 196, 202, 204; Dept. Exs. 5A-5D, 10C, 10D, Resp. Ex. B)

Sometime thereafter, the relationship became strained. On May 10, 2012, Respondent sent Minor A the following message via Facebook:

Where should I begin.....sometimes u make me wonder y we argue for the most stupidest things but when we do it always turn into something big....u say u don't mean to say some of the things u do but they make me wonder sometimes especially when u say certain things I ask myself y u say those things cause honestly I told u earlier no matter how upset I get I never wish bad on anyone I might call u every name in the book but wish bad on someone is really cruel and I note that u said something today which is the second time u said it about taking me to court and that makes me don't even want to b with u cause I feel like I can't trust u cause if ur thinking like that then that's not good and it makes me wanna stay far from u but I really care for u so I don't know y u would say what u said but it's too late I can't turn back the time....from the first time till now all I want is the best for u.....I care and just want u to make the right choices....I don't want u to struggle or go threw the difficulties that many people go threw....all I'm trying to do is put u on the right track cause the choices u make today will effect u for the rest of ur life....no one is perfect I know it's not easy but I want to b there for u but only if u want me too...I'm at a part in my life that I want to build something with someone but I gotta make sure that we are on the same path so we r working together and not apart....It's a crazy world we live in and it's not easy even I struggle and u see what I've been threw but that just makes me wanna do better....I wanna write more but I gotta go to this job [emphasis added]

Their relationship ended on June 13, 2012. On that date, Respondent sent Minor A the following messages via Facebook:

I can't believe u Minor A I never seen this coming u act like I fucked up and cheated when the whole time it was u the one fucking around on me the whole time and all u have to say is that ur sorry u r a really fucked up person and u need help idk what to say to u just know karma is a bitch what's goes around comes around and I never did anything bad too u that's the fuck up part well u did what u did can't turn back the hands of time have a good life everything happens for a reason!!!!!!!!!!

U fucked up something GOOD for a piece off ass or should I say DICK
(Tr. 82; Dept. Ex. 1)

On June 18, 2012, Respondent sent the following text messages to Minor A's friend,

Person 1:

Tell Minor A that I did and still love him no matter what I just don't understand y he treats me that way Like what did I do to deserve this I was good to him never cheated or anything Like y I just don't know and it hurts (Tr. 82; Dept. Ex. 2)

Minor A filed a complaint with the NYPD Internal Affairs Bureau (IAB) alleging that he had a sexual relationship with Respondent and that Respondent had provided him with alcohol. Sergeant Kevin Blake met with Minor A at his home. Minor A's friend, Person 1, was also in attendance while his father waited in a separate room. (Tr. 14-16)

The [REDACTED] Police Department interviewed Minor A and on June 18, 2012, summarized his statement in a written document entitled Supporting Deposition. The Supporting Deposition includes allegations that Respondent and Minor A were "boyfriends" who engaged in oral and anal sex approximately "30-35 times."¹ The Supporting Deposition also contains allegations that Respondent gave Minor A alcohol "at least once a week on Friday" during their relationship. (Dept. Ex. 3) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ Although the Affidavit (Dept. Ex. 3) entered into evidence at trial was unsigned, the Affirmation of Assistant District Attorney Michael Milza confirms that Minor A did sign and swear to the content therein. (Resp. Ex. A)

██████████ An Order of Protection was immediately issued by the
██████████ Town Court ordering Respondent “to stay at least 1000 feet away from Minor A
... and no third-party contact.” (Dept. Ex. 9)

On December 14, 2012, Minor A signed an affidavit recanting the allegations that he had a sexual relationship with Respondent and that Respondent provided him with alcohol. Specifically, the Affidavit states in pertinent part:

On or about June 18, 2012, after I became angry at Rosandre Burger, I went to the Town of [REDACTED] Police Department and misrepresented my relationship with Rosandre. While I told them that Rosandre Burgher had both anal and oral sexual intercourse with me on numerous occasions, none of the events which I set forth ever occurred. Rosandre Burgher and I never had any sexual contact of any kind and my statement to the Town of [REDACTED] Police and to the Grand Jury was untrue. Also, I told the Town of [REDACTED] Town Police that Rosandre Burgher gave me alcoholic beverages. This was also untrue. The only alcoholic beverages were the ones I took from Mr. Burgher's house when he was not home. I drank those beverages without his permission or knowledge.

Respondent's criminal defense attorney executed this Affidavit and Minor A signed it in that attorney's office. (Tr. 71-72, 226; Dept. Ex. 14, Resp. Ex. A)

Minor A was arrested for filing a false statement on April 23, 2013. On May 16, 2013, Sergeant Blake met with Minor A in jail to discuss the circumstances surrounding his recantation. A detective and assistant district attorney from [REDACTED] also interviewed Minor A. While in jail, Minor A provided Sergeant Blake with information about Respondent's Best Buy purchase of an iPhone on December 19, 2012, a laptop computer on January 16, 2013 and two MoneyGrams sent to Walmart with his brother named as the payee - one for \$350 on February 16, 2013 and another for \$277 on February 23 2013. Sergeant Blake confirmed that Respondent purchased the iPhone and laptop at Best Buy

and that Respondent sent two MoneyGrams to Minor A's brother in the amounts indicated. (Tr. 70, 73-79, 213-218; Dept. Exs. 16A, 16B, 17, 18A, 18B; Resp. Ex. A)

Minor A pled guilty to filing a false instrument and was sentenced to four months probation. [REDACTED]

[REDACTED] (Tr. 67, 71-72, 226; Dept. Ex. 15; Resp. Ex. A)

Specification 1: Unlawful Sexual Contact

Specification 2: Providing Alcohol to a Minor

Specification 3: Jeopardizing Welfare of a Minor

The Department Advocate contends that Respondent gave alcohol to, and had unlawful sexual contact with, a 16 year old male. Respondent denies the charged misconduct and asserts that he was nothing more than a friend and mentor to a troubled youth who turned against him after Respondent ended their friendship. Given these conflicting accounts, it is left to this tribunal to reconstruct the most likely nature of past events. After thorough consideration of the record, I find that the preponderance of the credible evidence does not support the allegations made in Specifications 1 and 2.

The primary legal issue raised by the proof presented here is whether the conflicting hearsay statements of a minor are sufficiently reliable to support a finding that Respondent is guilty of the charged misconduct. This tribunal has previously noted that disciplinary charges relying on hearsay are difficult to prove unless the hearsay is detailed, persuasive and unencumbered with credibility problems. *Police Department v. Lowe*, OATH Index No. 892/91 (June 3, 1991), citing *Transit Authority v. Maloney*, OATH Index No. 500/91 (Apr. 19, 1991), *aff'd sub nom. Maloney v. Suardy*, 202 A.D.2d 297, 609 N.Y.S.2d 179 (1st Dep't 1994). Here, the contradictory nature of the

complaining witness's two hearsay versions of the facts precludes reliance upon either in reaching a determination.

As noted above, the Department based its case primarily on Minor A's hearsay statement that when he was 16 he became Respondent's boyfriend and that they drank alcohol together and had sex "30 [to] 35 times." Sergeant Blake, from IAB, was a straightforward witness who recounted what both Minor A and his friend, Person 1, told him over the course of two interviews. Minor A informed Sergeant Blake that Respondent knew he was 16 when they first had sex on the night they met. He estimated that during their relationship Respondent gave him \$5,000 in gifts -- including clothes, electronics and cash -- and that they partied and drank alcohol together. According to Minor A and Person 1, they broke up when he "cheated" on Respondent with another man. The allegations reported to Sergeant Blake were memorialized in a written statement Minor A submitted to the [REDACTED] Police Department. This statement was the basis for Respondent's arrest. (Tr. 15, 23-26, 38-39, 42; Dept. Ex. 3)

This tribunal has no doubt that Sergeant Blake was accurate in his account of what Minor A related to him. The problem is that the substance of his testimony is only as reliable as the information he was given. Minor A presented one version of events to IAB and later recanted those statements as lies. Here, we are presented with the unique situation of a complaining witness who not only disavowed his original accusations, he also pled guilty in criminal court and received a sentence for lying when he swore that Respondent had sex with him and gave him alcohol when he was only 16 years of age. Because Minor A's contradictory hearsay accounts undermine both the reliability of the statements themselves and Minor A's credibility, and because those admitted falsehoods

form the primary basis for Specifications 1 and 2, they are inadequate to meet the Department Advocate's burden of proving the charged misconduct.

In making this finding, I acknowledge that the Department Advocate presented evidence suggesting that Respondent was more than a mentor to this 16 year old boy. I am particularly troubled by Respondent's Facebook posts and text messages. References to him "build[ing] something with someone," or of Minor A "fucking around" and ruining "something GOOD for a piece off ass or should I say DICK," do not connote a mentor-mentee relationship. Moreover, the picture entered into evidence of a fully clothed man, who could resemble Respondent, hugging Minor A in bed rightfully raises concerns. That a sweatshirt similar to the one worn by the partially obscured male in the photo was found in Respondent's closet is equally affecting. Adding to this scenario are pictures of alcohol containers found throughout Respondent's house. (Dept. Exs. 4, 12, 13A-E) This tribunal, however, must weigh this evidence against the entire record. Accordingly, I find that this circumstantial evidence is insufficient to corroborate a deficient and retracted hearsay statement which accused Respondent of giving Minor A alcohol or having oral or anal sex with him as charged in Specifications 1 and 2.

I do find, however, that Respondent's Facebook posts to a minor he knew to be only 16 years old are sufficient to substantiate the misconduct set forth in Specification 3. As noted above, in June 2012 Respondent sent Minor A a long message which ended as follows: "U fucked up something GOOD for a piece off ass or should I say DICK." Even if this tribunal credited Respondent's explanation that this was "gay slang," these communications evince the treatment of a minor that is likely to be injurious to his mental or moral welfare. Accordingly, I find Respondent guilty of Specification 3.

Specification 3: Jeopardizing Welfare of a Minor
Specification 5: Inappropriately Influenced a Witness
Specification 6: Violated Order of Protection

The Department Advocate asserts that Respondent violated a valid order of protection and wrongfully influenced Minor A to retract the allegations he made against Respondent. Respondent denied that he had any contact with Minor A or that he influenced or attempted to influence the minor in any way after his arrest. After careful consideration of the record as a whole I find that the preponderance of the credible evidence established that Respondent did engage in the misconduct charged in Specifications 3, 5 and 6.

Few things are more difficult, yet more fundamental to the role of a trier of fact, than attempting to reconstruct past events on the basis of opposing accounts. In a hearsay case of this nature, particular attention must be paid to the evidence. This tribunal has held many times that while hearsay is admissible in administrative proceedings, and may be the sole basis for a finding of fact, it must be carefully evaluated before it is relied upon. The more important the evidence is to the case, the more critically it should be assessed. *Police Department v. Acosta*, OATH Index No. 464/00 (Jan. 7, 2000). Factors such as corroboration, consistency, bias, logic and the degree to which an account comports with common sense and general human experience must be taken into account. *Maloney v. Suardy*, 202 A.D.2d 297, 609 N.Y.S.2d 179 (1st Dep't 1994).

As articulated above, there is reason to doubt the reliability of Minor A's hearsay statements. Here, however, Minor A's account that Respondent violated a valid Order of Protection and that Respondent induced him to change his testimony was corroborated by independent evidence. Sergeant Blake credibly testified that he met Minor A in jail after

his arrest for filing a false statement. During that visit he told Sergeant Blake that after Respondent was arrested they reestablished contact and communicated in a variety of ways. They eventually met at a McDonald's in [REDACTED] Respondent expressed his concern about the criminal court case, and although he never said it directly, it became clear to Minor A that Respondent wanted him to tell the police he had lied about the nature of their relationship. Respondent's criminal defense attorney executed the affidavit in which Minor A recanted his claims and Respondent took him to that attorney's office to sign the affidavit. Minor A added that he was advised not to speak to the authorities about this case, reassured that he would not get in trouble and promised bail if arrested. (Tr. 67-72, 128)

Minor A further informed Sergeant Blake that after signing the recantation Respondent gave him an iPhone, a laptop computer and cash via two MoneyGrams. He also provided the following details about each item: 1) the cell phone number assigned to the iPhone and that it was purchased at Best Buy; 2) that Respondent allowed him to use his debit card to purchase a laptop, also at Best Buy; 3) that the two MoneyGrams were sent to the Middletown Walmart with his older brother named as the payee because minors are not permitted to take possession of such instruments; and, 4) that Minor A used his brother's identification to cash the MoneyGrams. (Tr. 67-71)

Sergeant Blake followed up on this information and his investigation confirmed the following information:

- The cell phone number Minor A provided to Sergeant Blake was assigned to an iPhone that Respondent bought on December 19, 2012 at a Best Buy in Middletown, NY. Sergeant Blake obtained the Best Buy receipts and verified that the iPhone account was registered in Respondent's name. However, the "primary" and "verified" email linked to the phone's Apple ID was Minor A's email and not Respondent's email. (Tr. 73-74; Dept. Exs. 16A-B)

- On January 16, 2013, Respondent's debit card was used to purchase a laptop computer at a Paramus New Jersey Best Buy. The store, however, did not retain the surveillance videos for that date. (Tr. 126; Dept. Ex. 17)
- Receipts from the [REDACTED] Walmart confirm that Respondent sent a MoneyGram for \$350 on February 16, 2013 and a second one for \$277 on February 23, 2013. Respondent's brother was named as the "receiver" or payee and both were cashed. (Tr. 76-78; Dept. Exs. 18A-B) The store, however, did not retain the surveillance videos for those dates. (Tr. 123)

That Minor A provided such detailed information about these items while he was in jail, and that they were independently confirmed and documented by Sergeant Blake during his investigation, constitutes credible corroborating evidence on which this tribunal can infer that Minor A told the truth when he said that Respondent contacted him while a valid order of protection was in effect, influenced him to change his statement and took him to his attorney's office to execute a recantation affidavit. The specificity of details such as the location of purchases, the correct cell phone number, that a debit card was used for the laptop purchase, the number of MoneyGrams sent and the specific location they were cashed give this evidence the indicia of reliability needed to support the hearsay claims forming the basis of Specification 3, 5 and 6.

Moreover, I find that Respondent's explanation for these purchases were evasive, inconsistent and wholly implausible. Although Respondent conceded that he purchased the iPhone, laptop and the two MoneyGrams at issue, he firmly denied that he violated the Order of Protection or that he gave Minor A these items in exchange for the recantation. (Tr. 184-185, 200, 226) He explained that after he met Minor A he became friendly with the 16- year-old's entire family. He claims to have even attended a Father's Day barbeque with Minor A's family after Respondent ended their relationship and that Minor A's father visited his home after [REDACTED] (Tr. 198-199, 202, 217)

Respondent tried to convince this tribunal that he bought Minor A's sister, [REDACTED] an iPhone on December 19, 2012, and possibly a laptop on January 16, 2013, simply "because she was [his] roommate" and she was "still living with me at the time." (Tr. 185-186, 213-214) He further explained that he sent Minor A's older brother two MoneyGrams because they were "very good friends" and [REDACTED] needed help covering expenses related to his baby's birth. Respondent also asserted in his Department interview that this was not the first time he had lent [REDACTED] money. (Tr. 215, 217-219)

After assessing Respondent's demeanor and reviewing the entirety of his testimony, I find that Respondent was not forthright about contacting and influencing Minor A while a valid order of protection was in effect or about the iPhone, laptop and MoneyGrams he purchased after Minor A signed the recantation affidavit. It is simply not believable that Respondent was acting only as a disinterested friend who was helping the adult siblings of the 16-year-old-boy he was charged with sexually abusing. First, Respondent's statement that he remained friendly with the entire family, including Minor A's father, [REDACTED] defies credulity and flies in the face of general human experience.

Second, the timing of these purchases is highly suspect. For example, Respondent bought the iPhone listing Minor A's email address on December 19, 2012 --only five days after the 16-year-old signed the recantation affidavit. The rest of the items were purchased soon thereafter.

Third, Respondent did not submit corroborating evidence to support important aspects of his testimony. For example, even though he claimed to have returned the laptop at issue, he did not present debit card records to substantiate his claim. Similarly,

although he stated that he and Minor A's brother were "very good friends" and communicated on Facebook, no evidence, such as Facebook posts, were provided.

Fourth, Respondent's reason for purchasing an iPhone in December 2012 was inconsistent and evasive. In fact, when asked about the phone at his Department interview, Respondent did not state that it was for Minor A's sister even after being shown the receipt. Although at trial he claimed the phone was for Minor A's sister, he could not explain why Minor A's email was listed on the account. Instead, he said, "I would assume [the email] would be [the sister's]." This answer ignored the fact that he made that purchase himself and presumably provided the information. It also fails to explain why the email uses the first letter of Minor A's name [REDACTED] as opposed to the first letter of the sister's name [REDACTED]. His feigned confusion on the stand was wholly unconvincing.

Fifth, this tribunal is highly skeptical of Respondent's reasons for his post recantation gift giving. His trial testimony that he gave Minor A's the phone and possibly the laptop because "they were roommates" seemed more evasive than factual. Similarly, his reason for giving Minor A's brother money seemed contrived. Although he stated at trial that he gave the brother money because he was expecting a baby, Respondent did not say this at his Department interview. Instead, he explained that "...people call me, like send me money and I would send it... [Minor A's brother] like I said he called me and he said he needed money for something. Like I don't remember exact because, like I said, it was different occasion." (Tr. 219) The contrast in responses impacted negatively on Respondent's credibility.

Standing alone, the conclusion that Respondent was not a completely forthright witness does not establish that he engaged in the misconduct set forth in Specifications 3.

5 and 6. One of the most troubling, and pivotal, details concerning the recantation is the undisputed fact that Minor A signed his recantation affidavit in the office of Respondent's criminal defense attorney. This affidavit was also typewritten in a proper legal format. These facts alone raise serious concerns of undue influence. Thus, Respondent's testimony and Minor A's hearsay account must be examined under the cloud of these disturbing facts.²

Respondent's defense attorney was his legal representative in the criminal case at hand. It seems highly unlikely that Minor A would have approached Respondent's attorney of his own accord. However, even if he did, it seems even less likely that Respondent's attorney would not have explained to his client how this came about—particularly after all charges were dropped against Respondent. Respondent's professed ignorance was not believable and cast a shadow on his defense. Accordingly, I find that Respondent not only knew about these meeting, but had a direct role in orchestrating them. The admitted role Respondent's counsel played in executing Minor A's affidavit may alone be sufficient to find that Respondent violated the Order of Protection barring all direct and "third party contact" with the minor.

In sum, I find that the corroborating evidence presented at trial had sufficient indicia of reliability to corroborate Minor A's hearsay statements in support of the misconduct set forth in Specifications 3, 5 and 6. I further find that Respondent's testimony on these points seemed dishonest, self-serving and contrived. Accordingly, I find Respondent guilty of Specifications 3, 5 and 6.

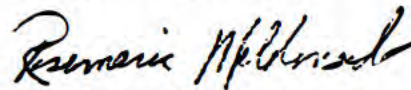
² This tribunal notes that the firm representing Respondent before this tribunal had no role in his criminal case.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 10, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

In this proceeding, Respondent has been found guilty of extremely serious misconduct involving a minor. As a trained New York City police officer, Respondent knew better than to tamper with a witness and violate a valid order of protection. This conduct is even more egregious because Respondent's target was a minor. These actions clearly bring discredit to the Department and undermine its ability to effectively carry out its mission. Based on the seriousness of Respondent's misconduct, and the high public trust police officers must fulfill, I recommend that Respondent be **DISMISSED** immediately from the New York City Police Department.

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner Trials

APPROVED

JUL 23, 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

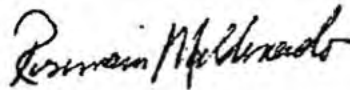
POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ROSANDRE BURGHER
TAX REGISTRY NO. 941470
DISCIPLINARY CASE NO. 2012-7681

In 2011 and 2014, Respondent received an overall rating of 4.0 "Highly Competent" on his annual performance evaluation. He was rated 3.5 "Highly Competent/Competent" in 2013. [REDACTED]

[REDACTED] Respondent has no prior formal disciplinary record.

For your consideration.



Rosemarie Maldonado
Deputy Commissioner Trials